

UNITED STATES DISTRICT COURT
for the
EASTERN DISTRICT OF NORTH CAROLINA

U.S.A. vs. Ishmael Sebastian Kelly

Docket No. 5:11-CR-166-1FL

Petition for Action on Supervised Release

COMES NOW Marla M. Bianco, U.S. Probation Officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Ishmael Sebastian Kelly, who, upon an earlier plea of guilty to Possession of Firearms and Ammunition by a Convicted Felon, in violation of 18 U.S.C. §§ 922(g)(1) and 924, was sentenced by the Honorable Louise W. Flanagan, U.S. District Judge, on July 19, 2012, to the custody of the Bureau of Prisons for a term of 30 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for a period of 36 months.

Ishmael Sebastian Kelly was released from custody on September 18, 2013, at which time the term of supervised release commenced. On October 31, 2013, a Violation Report was submitted to the Court advising that the defendant had taken a morphine pill which was not prescribed to him, and was charged with Driving While License Revoked, No Inspection, No Registration, and No Insurance (13CR710957 and 958). His supervision was continued. These charges were subsequently dismissed, and he secured a valid drivers license. On July 11, 2014, the defendant's conditions of supervision were modified in response to drug use (marijuana) to include two days jail, and the DROPS condition. Kelly completed a 5-day DROPS sanction in response to drug use (marijuana) in August 2014. On October 22, 2014, a Violation Report was submitted to the Court advising that the defendant was charged with Reckless Driving to Endanger, Exceeding Posted Speed (14CR708464), and Communicating Threats (14CR54442), all of which were subsequently dismissed. The defendant completed a 10-day DROPS sanction in response to drug use (marijuana) in July 2015. On October 15, 2015, the defendant's conditions were modified to include 120-days of location monitoring in response to drug use and Driving with Revoked License (15CR702044). On December 30, 2015, as a punitive sanction for an additional Driving While License Revoked offense, his location monitoring was extended for an additional 30 days.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS: The defendant was charged on April 15, 2016, with Driving While License Revoked, Failure to Have Valid Registration, No Insurance and Improper Tags) in Harnett County, North Carolina. Kelly notified the probation officer immediately as required. Then on May 9, 2016, the defendant was pulled over and charged with Driving While License Revoked and Speeding 71 in a 55 MPH Zone in Johnston County, North Carolina. Kelly again notified the probation officer immediately as required. On April 18, 2016, a warrant was issued when Mr. Kelly failed to appear in Court for an old case out of Lee County, North Carolina (Speeding and Driving While License Revoked). Mr. Kelly was subsequently taken into custody on May 12, 2016, when he appeared at Court in Harnett County for his current driving charges. The probation officer met with the defendant after the incident occurred. Mr. Kelly states that is his only way of getting to work and being able to keep money coming into the home as his fiancé is unable to work due to medical reasons. While Mr. Kelly understands that he cannot drive at all, he is going to make efforts to find alternative modes of transportation to work. On June 2, 2016, Mr. Kelly reported his Failure to Appear charge was dismissed and only has to pay fines associated with the Speeding and Driving While License Revoked convictions. All drug/alcohol screens submitted have yielded negative results since September 2015. Aside from the driving charges, he has been compliant with all other conditions.

Based on these factors, it is respectfully recommended that his supervision be continued at this time. As a punitive sanction, it is recommended that Kelly serve 12 days in the Bureau of Prisons. The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

1. The defendant shall be confined in the custody of the Bureau of Prisons for a period of 12 days, as arranged by the probation office and shall abide by all rules and regulations of the designated facility. Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,


I declare under penalty of perjury that the foregoing
is true and correct.

/s/ Eddie J. Smith
Eddie J. Smith
Supervising U.S. Probation Officer

/s/ Marla M. Bianco
Marla M. Bianco
U.S. Probation Officer
310 Dick Street
Fayetteville, NC 28301-5730
Phone: 910-354-2535
Executed On: June 16, 2016

ORDER OF THE COURT

Considered and ordered this 17th day of June, 2016 and ordered filed and made a part of the records in the above case.



Louise W. Flanagan
U.S. District Judge